

**Board for Judicial Administration
Meeting Minutes**

**August 20, 2010
AOC SeaTac Office
SeaTac, Washington**

Members Present: Chief Justice Barbara Madsen, Chair; Judge Michael Lambo, Member-Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge Stephen E. Brown; Judge Ronald Culpepper; Judge Susan Dubuisson; Judge Deborah Fleck; Mr. Jeff Hall; Judge Laura Inveen; Mr. Sal Mungia; Judge Dennis Sweeney; Judge Gregory Tripp; Judge Stephen Warning; and Judge Chris Wickham

Guests Present: Judge Andrea Darvas, Ms. Delilah George (by phone), Ms. Lynne Jacobs, Ms. Catherine Moore, and Mr. Kevin Stock

Staff Present: Ms. Beth Flynn, Ms. Shannon Hinchcliffe, Mr. Dirk Marler, Ms. Mellani McAleenan, Dr. Carl McCurley, and Mr. Chris Ruhl

The meeting was called to order by Judge Lambo.

Recognition of Judge Sweeney's Service as Chair of the Washington State Center for Court Research Advisory Board

Chief Justice Madsen thanked Judge Sweeney for his outstanding service as the first Chair of the Washington State Center for Court Research (WSCCR) Advisory Board.

Judge Ann Schindler will be taking over as Chair of the WSCCR Advisory Board.

June 18, 2010 Meeting Minutes

Judge Fleck asked that some revisions be made to the "Trial Court Operations Funding" section of the minutes. Judge Fleck will work with Ms. Flynn to revise the minutes.

Judge Brown asked that the wording in the first paragraph of the "State Budget Forecast" section be revised for clarity. Mr. Hall will work with Ms. Flynn to reword that portion of the minutes.

It was moved by Judge Fleck and seconded by Judge Warning to approve the June 18, 2010 BJA meeting minutes with the requested revisions to the "Trial Court Operations Funding" and "State Budget Forecast" sections. The motion carried.

Civil Legal Aid Oversight Committee Appointment

It was moved by Judge Dubuisson and seconded by Judge Fleck to reappoint Judge Erik Rohrer to the Civil Legal Aid Oversight Committee. The motion carried.

Justice in Jeopardy Implementation Committee Appointment

It was moved by Judge Warning and seconded by Judge Wickham to appoint Judge Theresa Doyle to the Justice in Jeopardy Implementation Committee. The motion carried.

Proposed WSBA Bylaws

Mr. Mungia gave an overview of the Bylaws review process that has been undertaken by the Washington State Bar Association (WSBA).

Ms. Moore reported that the WSBA Bylaws Review Committee had some philosophical discussions on what it means to be a member of the WSBA. It was their belief as a committee that simply being inactive did not accurately reflect the position judges hold. That is why they decided to create a judicial membership category which has been approved by the Supreme Court. Ms. Moore explained that as judicial members, judges would need to verify their contact information once a year and pay a membership fee which would cover the costs associated with judicial membership. In addition, judges going into private practice after being on the bench would need to attend a readmission course.

There was concern by some Board for Judicial Association (BJA) members of paying dues into an association that takes positions on political issues that might come before a judge in the future. Any move to bring judges under the influence and policies of the WSBA is troublesome.

There was also a question regarding if judges must be members of the WSBA. Mr. Mungia responded that the WSBA does not have a position on whether *State v. Monfort* requires that judges be members of the WSBA and instead that dispute may be between the State Supreme Court and judges. Mr. Mungia stated that in his opinion *Monfort* is not the clearest case and that he has heard different interpretations of it. Mr. Mungia stated that whether or not judges must be members of the WSBA the WSBA is attempting to make a classification for judges that will meet the objectives of the WSBA while hopefully satisfying the concerns of judges.

The WSBA is very happy to continue to talk about this and work toward a resolution and they appreciate the opportunity to work with the judges and come up with a solution.

This issue will be on the September BJA agenda and the BJA will take no action at this time.

Judge Lambo thanked Ms. Moore and Mr. Mungia for their work on this issue.

Implementation of Revised Rules CrR 3.1 and CrRLJ 3.1

Judge Lambo reported that he received a copy of a letter from the District and Municipal Court Judges' Association (DMCJA) to the Supreme Court regarding their concerns about the implementation of the amendment to CrRLJ 3.1(d)(4). They requested that the Supreme Court consider delaying the implementation of this rule.

Judge Brown said the rule goes into effect September 1, 2010 and judges are concerned about the implementation. The rule requires courts to certify that a public defender is qualified under new guidelines before being appointed to a case. Since the guidelines have not been approved by the Supreme Court, judges wonder if they can appoint any public defenders. There is really no direction in what to do in the process. As an organization they are not having any input as to what these standards might be. No one has contacted them to assist in developing the standards. They do know there have been some indigent defense standards developed but they are not sure if those are the standards that will be adopted by the Supreme Court. Unless some standards are coming out in the next few days, they would like to see the effective date delayed.

It was moved by Judge Warning and seconded by Judge Brown that the BJA request that the Supreme Court delay the effective date of the recently adopted amendments to CrR 3.1, CrRLJ 3.1, and JuCR 9.2, currently scheduled to become effective on September 1, 2010, until the Standards for Indigent Defense Services have been approved by the Supreme Court. The motion carried.

Chief Justice Madsen indicated that the Supreme Court became concerned after receiving letters and phone calls regarding the implementation of the rule. This issue will be on their September En Banc agenda.

GR 29 Work Group

Judge Baker reported that the GR 29 Work Group met twice and the group feels that this needs to be pursued but not necessarily with an amendment to GR 29. The work group agrees that GR 29 should not be modified at this time. There needs to be a work group created to develop standards for judges to be educated about these issues which will prevent difficulties and problems in managing their workplaces. There is a need to have other stakeholders involved in developing those standards.

The work group envisions the development of a benchbook that would take into account the wide diversity and various court structures throughout the state and the different levels of court. There could be training at the spring 2011 conferences and the benchbook could be distributed there.

Judge Dubuisson suggested that the Presiding Judges Education Committee might be able to work on this. Next year they will be concentrating on personnel issues and they are looking for issues that are important to judges. They will train using webinars and maybe one in-person meeting.

Mr. Hall stated that this is a resource question for the Administrative Office of the Courts (AOC). He will determine what level of resources will be required and determine if AOC is able to take on this project with existing resources. He will develop a charter and bring this information back to the BJA in September.

BJA Dues Update

Last November the BJA decided to send dues notices to all judges and reminder notices were sent in May. There are currently 147 judges who have not paid their BJA dues which amounts to approximately \$7,000 in uncollected dues. This is more than double the number of judges who had not paid during the last dues cycle.

There is currently about \$20,000 in the account and the funds are usually spent on the legislative dinners prior to the legislative session.

Washington State Bar Association

Mr. Mungia reported that the WSBA Moderate Means Program will be run through the three law schools and attorneys will be solicited in the fall. The program will be rolled out in 2011.

The Board of Governors voted down the use of the national bar exam but they are considering using components of it in their testing. The Board of Governors has formed a committee to further study this matter.

Mr. Mungia invited everyone to attend the WSBA Annual Awards Banquet on September 23.

Reports from the Courts

Supreme Court: Chief Justice Madsen reported that the Supreme Court is in summer recess. She attended her first Council of Chief Justices Conference in July and it was very successful. She instituted a new En Banc process for the Court and have added a

second day for the Supreme Court to meet separately on administrative matters and case-related.

Court of Appeals: Judge Sweeney reported that Judge Jill Johanson and Judge Laurel Siddoway prevailed in their races in the primary election. The Court of Appeals is hoping for the best and expecting the worst on the budget.

Superior Court Judges: Judge Warning reported that the Superior Court Judges' Association (SCJA) legislative agenda consists largely of "leave us alone" requests. Becca funding is being discussed and the SCJA is working with AOC on bail decisions.

Courts of Limited Jurisdiction: Judge Brown reported that Judge Brian Altman was appointed to a superior court position. The DMCJA has been dealing with a few issues from the Department of Licensing (DOL). Earlier this year DOL destroyed records if they were not in conformance with their practices. A lot of work has been done to correct this issue. They met with DOL executive leadership and agreed to meet on an annual basis with DOL. The second issue was a failure to update the Model Traffic Ordinance which caused a substantial problem. The AOC stepped in and worked out the right process to deal with that. The DMCJA is also working on the longstanding issue of part-time district court judges. The current provision states the salary of a part-time judge is a proration of the full-time salary based on their workload. About 7 of the 18 district court PT judges are substantially underpaid based on the judicial workload report. Last year at the association level they proposed a bill to try to change this. It did not go anywhere and they are looking at it again. They are also considering taking the issue to the Salary Commission.

Association Reports

County Clerks: Mr. Stock stated the Clerks are looking at budget reductions and are fighting to maintain revenue. They are educating themselves internally with best practices to help offset some of the cuts they have to make. They also received some of the DOL fallback and will have an education session with DOL at their fall conference. They are not pursuing anything on their own legislatively, but are working with WACO on one item.

Superior Court Administrators: Ms. George shared that the Superior Court Administrators completed an education survey to determine the education needs of the administrators. Their Education Committee decided to hold two 90-minute ECCL trainings and have them recorded and available online for those who are unable to participate.

District and Municipal Court Managers: Ms. Jacobs reported that their fall regionals are coming up. So far, the registration numbers are very low and they are a little nervous about the low numbers. They might consider pooling resources for future

education sessions. They will meet next Thursday to discuss the DOL issue. Their Education Committee is considering a mandatory college for court administrators and will bring this idea up at next Court Management Council meeting.

Administrative Office of the Courts

Mr. Hall stated that the Governor is considering direct agency reductions in the budget. Chief Justice Madsen and AOC staff have had discussions with the Governor and her staff regarding the Governor's authority to reduce the judicial branch's budget. Temporarily, budget cuts have been avoided but there will be a negative cash flow in the next 30-60 days and Mr. Hall anticipates that the Governor may enact an executive order requiring agency budget cuts but it is unknown if it would include the judicial branch. Mr. Hall anticipates the budget problems will worsen and budget reductions will be required prior to the start of the legislative session.

The Judicial Information System Committee (JISC) met Wednesday and adopted a motion for a rule change regarding electronic signatures.

There being no further business, the meeting was adjourned.